



PRELIMINARY DRAFT
No. 3153

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2011 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 36-8-8.

Synopsis: PERF and TRF administrative matters. PERF/TRF proposal #1. Makes technical corrections in conformity with amendments in P.L.22-1998 to the 1977 police officers' and firefighters' pension and disability fund (fund) that reduced from 55 to 52 the age at which a fund member reaches regular retirement status.

Effective: July 1, 2011.



A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-8-8-12, AS AMENDED BY P.L.34-2009,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 12. (a) Benefits paid under this section are subject
4 to sections 2.5 and 2.6 of this chapter.

5 (b) If an active fund member has a covered impairment, as
6 determined under sections 12.3 through 13.1 of this chapter, the
7 member is entitled to receive the benefit prescribed by section 13.3 or
8 13.5 of this chapter. A member who has had a covered impairment and
9 returns to active duty with the department shall not be treated as a new
10 applicant seeking to become a member of the 1977 fund.

11 (c) If a retired fund member who has not yet reached the member's
12 fifty-second birthday is found by the PERF board to be permanently or
13 temporarily unable to perform all suitable work for which the member
14 is or may be capable of becoming qualified, the member is entitled to
15 receive during the disability the retirement benefit payments payable
16 at fifty-two (52) years of age. During a reasonable period in which a
17 fund member with a disability is becoming qualified for suitable work,
18 the member may continue to receive disability benefit payments.
19 However, benefits payable for disability under this subsection are
20 reduced by amounts for which the fund member is eligible from:

21 (1) a plan or policy of insurance providing benefits for loss of
22 time because of disability;

23 (2) a plan, fund, or other arrangement to which the fund member's
24 employer has contributed or for which the fund member's
25 employer has made payroll deductions, including a group life
26 policy providing installment payments for disability, a group
27 annuity contract, or a pension or retirement annuity plan other
28 than the fund established by this chapter;

29 (3) the federal Social Security Act (42 U.S.C. 401 et seq.), the
30 Railroad Retirement Act (45 U.S.C. 231 et seq.), the United States
31 Department of Veterans Affairs, or another federal, state, local, or



1 other governmental agency;

2 (4) worker's compensation payable under IC 22-3; and

3 (5) a salary or wage, including overtime and bonus pay and extra
4 or additional remuneration of any kind, the fund member receives
5 or is entitled to receive from the member's employer.

6 For the purposes of this subsection, a retired fund member is
7 considered eligible for benefits from subdivisions (1) through (5)
8 whether or not the member has made application for the benefits.

9 (d) Notwithstanding any other law, a plan, policy of insurance, fund,
10 or other arrangement:

11 (1) delivered, issued for delivery, amended, or renewed after
12 April 9, 1979; and

13 (2) described in subsection (c)(1) or (c)(2);

14 may not provide for a reduction or alteration of benefits as a result of
15 benefits for which a fund member may be eligible from the 1977 fund
16 under subsection (c).

17 (e) Time spent receiving disability benefits, not to exceed twenty
18 (20) years, is considered active service for the purpose of determining
19 retirement benefits. A fund member's retirement benefit shall be based
20 on:

21 (1) the member's years of active service; plus

22 (2) if applicable, the period, not to exceed twenty (20) years,
23 during which the member received disability benefits.

24 (f) A fund member who is receiving disability benefits:

25 (1) under section 13.3(d) of this chapter; or

26 (2) based on a determination under this chapter that the fund
27 member has a Class 3 impairment;

28 shall be transferred from disability to regular retirement status when the
29 member becomes ~~fifty-five (55)~~ **fifty-two (52)** years of age.

30 (g) A fund member who is receiving disability benefits:

31 (1) under section 13.3(c) of this chapter; or

32 (2) based on a determination under this chapter that the fund
33 member has a Class 1 or Class 2 impairment;

34 is entitled to receive a disability benefit for the remainder of the fund
35 member's life in the amount determined under the applicable sections
36 of this chapter.

37 SECTION 2. IC 36-8-8-18, AS AMENDED BY P.L.148-2007,
38 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2011]: Sec. 18. (a) Except as provided in subsection (b), if a
40 unit becomes a participant in the 1977 fund, credit for prior service by
41 police officers (including prior service as a full-time, fully paid town
42 marshal or full-time, fully paid deputy town marshal by a police officer
43 employed by a metropolitan board of police commissioners) or by
44 firefighters before the date of participation may be given by the PERF
45 board only if:

46 (1) the unit contributes to the 1977 fund the amount necessary to



1 amortize prior service liability over a period of not more than
 2 forty (40) years, the amount and period to be determined by the
 3 PERF board; and

4 (2) the police officers or firefighters pay, either in a lump sum or
 5 in a series of payments determined by the PERF board, the
 6 amount that they would have contributed if they had been
 7 members of the 1977 fund during their prior service.

8 If the requirements of subdivisions (1) and (2) are not met, a fund
 9 member is entitled to credit only for years of service after the date of
 10 participation.

11 (b) If a unit becomes a participant in the 1977 fund under section
 12 3(c) of this chapter, or if a firefighter becomes a member of the 1977
 13 fund under section 7(g) of this chapter, credit for prior service before
 14 the date of participation or membership shall be given by the PERF
 15 board as follows:

16 (1) For a member who will accrue twenty (20) years of service
 17 credit in the 1977 fund by the time the member reaches the
 18 earliest retirement age under the fund at the time of the member's
 19 date of participation in the 1977 fund, the member will be given
 20 credit in the 1977 fund for one-third (1/3) of the member's years
 21 of participation in PERF as a police officer, a firefighter, or an
 22 emergency medical technician.

23 (2) For a member who will not accrue twenty (20) years of service
 24 credit in the 1977 fund by the time the member reaches the
 25 earliest retirement age under the fund at the time of the member's
 26 date of participation in the 1977 fund, such prior service shall be
 27 given only if:

28 (A) The unit contributes to the 1977 fund the amount
 29 necessary to fund prior service liability amortized over a
 30 period of not more than ten (10) years. The amount of
 31 contributions must be based on the actual salary earned by a
 32 first class firefighter at the time the unit becomes a participant
 33 in the 1977 fund, or the firefighter becomes a member of the
 34 1977 fund, or if no such salary designation exists, the actual
 35 salary earned by the firefighter. The limit on credit for prior
 36 service does not apply if the firefighter was a member of the
 37 1937 fund or 1977 fund whose participation was terminated
 38 due to the creation of a new fire protection district under
 39 IC 36-8-11-5 and who subsequently became a member of the
 40 1977 fund. A firefighter who was a member of or reentered the
 41 1937 fund or 1977 fund whose participation was terminated
 42 due to the creation of a new fire protection district under
 43 IC 36-8-11-5 is entitled to full credit for prior service in an
 44 amount equal to the firefighter's years of service before
 45 becoming a member of or reentering the 1977 fund. Service
 46 may only be credited for time as a full-time, fully paid



1 firefighter or as an emergency medical technician under
2 section 7(g) of this chapter.

3 (B) The amount the firefighter would have contributed if the
4 firefighter had been a member of the 1977 fund during the
5 firefighter's prior service must be fully paid and must be based
6 on the firefighter's actual salary earned during that period
7 before service can be credited under this section.

8 (C) Any amortization schedule for contributions paid under
9 clause (A) and contributions to be paid under clause (B) must
10 include interest at a rate determined by the PERF board.

11 (3) If, at the time a unit entered the 1977 fund, the unit
12 contributed the amount required by subdivision (2) so that a fund
13 member received the maximum prior service credit allowed by
14 subdivision (2) and, at a later date, the earliest retirement age was
15 lowered, the unit may contribute to the 1977 fund on the fund
16 member's behalf an additional amount that is determined in the
17 same manner as under subdivision (2) with respect to the
18 additional prior service, if any, available as a result of the lower
19 retirement age. If the unit pays the additional amount described in
20 this subdivision in accordance with the requirements of
21 subdivision (2), the fund member shall receive the additional
22 service credit necessary for the fund member to retire at the lower
23 earliest retirement age.

24 (c) This subsection applies to a unit that:

25 (1) becomes a participant in the 1977 fund under section 3(c) of
26 this chapter; and

27 (2) is a fire protection district created under IC 36-8-11 that
28 includes a township or a municipality that had a 1937 fund.

29 A firefighter who continues uninterrupted service with a unit covered
30 by this subsection and who participated in the township or municipality
31 1937 fund is entitled to receive service credit for such service in the
32 1977 fund. However, credit for such service is limited to the amount
33 accrued by the firefighter in the 1937 fund or the amount necessary to
34 allow the firefighter to accrue twenty (20) years of service credit in the
35 1977 fund by the time the firefighter becomes ~~fifty-five (55)~~ **fifty-two**
36 **(52)** years of age, whichever is less.

37 (d) The unit shall contribute into the 1977 fund the amount
38 necessary to fund the amount of past service determined in accordance
39 with subsection (c), amortized over a period not to exceed ten (10)
40 years with interest at a rate determined by the PERF board.

41 (e) If the township or municipality has accumulated money in its
42 1937 fund, any amount accumulated that exceeds the present value of
43 all projected future benefits from the 1937 plan shall be paid by the
44 township or municipality to the unit for the sole purpose of making the
45 contributions determined in subsection (d).

46 (f) To the extent permitted by the Internal Revenue Code and the



applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing permissive service credit under this chapter, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 3. IC 36-8-8-18.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 18.1. (a) As used in this section, "police officer" includes a former full-time, fully paid town marshal or full-time, fully paid deputy town marshal who is employed as a police officer by a metropolitan board of police commissioners.

(b) If a unit becomes a participant in the 1977 fund and the unit previously covered police officers, firefighters, or emergency medical technicians in PERF, or if the employees of the unit become members of the 1977 fund under section 7(g) of this chapter, the following provisions apply:

(1) A minimum benefit applies to members electing to transfer or being transferred to the 1977 fund from PERF. The minimum benefit, payable at age ~~fifty-five (55)~~ **fifty-two (52)**, for such a member equals the actuarial equivalent of the vested retirement benefit payable to the member upon normal retirement under IC 5-10.2-4-1 as of the day before the transfer, based solely on:

(A) creditable service;

(B) the average of the annual compensation; and

(C) the amount credited to the annuity savings account;

of the transferring member as of the day before the transfer under IC 5-10.2 and IC 5-10.3.

(2) The PERF board shall transfer from PERF to the 1977 fund the amount credited to the annuity savings accounts and the present value of the retirement benefits payable at age sixty-five (65) attributable to the transferring members.



- 1 (3) The amount the unit and the member must contribute to the
2 1977 fund under section 18 of this chapter, if any service credit
3 is to be given under that section, will be reduced by the amounts
4 transferred to the 1977 fund by the PERF board under subdivision
5 (2).
- 6 (4) Credit for prior service in PERF of a member as a police
7 officer, a firefighter, or an emergency medical technician is
8 waived in PERF. Any credit for that service under the 1977 fund
9 shall only be given in accordance with section 18 of this chapter.
- 10 (5) Credit for prior service in PERF of a member, other than as a
11 police officer, a firefighter, or an emergency medical technician,
12 remains in PERF and may not be credited under the 1977 fund.

